



## Senate

General Assembly

**File No. 92**

February Session, 2008

Substitute Senate Bill No. 428

*Senate, March 20, 2008*

The Committee on Banks reported through SEN. DUFF of the 25th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING MORTGAGE CLOSING FUNDS AVAILABILITY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-758 of the 2008 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2008*):

4 Any person who makes any first mortgage loan, as defined in  
5 section 36a-485 of the 2008 supplement to the general statutes, or any  
6 secondary mortgage loan, as defined in section 36a-510 of the 2008  
7 supplement to the general statutes, shall, [at the time of consummation  
8 of such loan] no later than three p.m. on the day the loan is  
9 consummated or at the termination of any right to rescind the loan  
10 transaction under 12 CFR 226, as from time to time amended,  
11 whichever is later, pay the loan proceeds to the mortgagor, to the  
12 mortgagor's attorney, to the mortgagee's attorney or to any other  
13 person specified in any settlement statement, any written agreement  
14 between the mortgagor and the mortgagee or any written instruction

15 of the mortgagor, by a certified, bank treasurer's or cashier's check or  
16 by means of wire transfer. A person violating this section shall be  
17 subject to the penalties in section 2 of this act.

18 Sec. 2. (NEW) (*Effective October 1, 2008*) (a) Any person or entity  
19 engaged in the business of (1) making first mortgage loans in this state  
20 and licensed in accordance with subpart (A) of part I of chapter 668 of  
21 the general statutes, or (2) making secondary mortgage loans in the  
22 state and licensed in accordance with subpart (B) of part I of chapter  
23 668 of the general statutes, that chooses to utilize a wire transfer to  
24 send the loan proceeds to the mortgagee's attorney, shall transfer the  
25 loan proceeds to the bank which holds the account of the mortgagee's  
26 attorney by a wire transfer in a timely manner, but in any event not  
27 later than three p.m. on the scheduled date of the closing of the loan. In  
28 the case of a mortgage refinancing, where any right of rescission under  
29 12 CFR 226.23 has terminated, any such wire transfer shall be in a  
30 timely manner, but in any event not later than three p.m. on the  
31 disbursement date. In the case of a person or entity engaged in the  
32 business of making secondary mortgage loans in this state, the  
33 provisions of this subsection shall apply only to secondary mortgage  
34 loans to finance the acquisition or initial construction of the  
35 mortgagor's principal dwelling.

36 (b) The commissioner may suspend, revoke or refuse to renew a  
37 license pursuant to section 36a-51 of the general statutes issued to a  
38 person or entity engaged in the business of making first mortgage  
39 loans or secondary mortgage loans in this state and licensed in  
40 accordance with subpart (A) or (B) of part I of chapter 668 of the  
41 general statutes, or subject such person or entity to civil fines not to  
42 exceed one thousand dollars per violation, for failure to comply with  
43 section 36a-758 of the 2008 supplement to the general statutes, as  
44 amended by this act, or subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2008	36a-758
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Sec. 2	October 1, 2008	New section
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***Statement of Legislative Commissioners:***

A reference to three p.m. was added in section 2 for internal consistency within the section and for consistency with section 1.

**BA**      *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Banking Dept.	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill results in a potential minimal revenue gain to the General Fund due to the potential imposition of civil fines associated with violations of the requirements of Section 1 of the bill.

**The Out Years**

Potential revenues would continue into the future subject to violations.

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**OLR Bill Analysis****sSB 428****AN ACT CONCERNING MORTGAGE CLOSING FUNDS  
AVAILABILITY.****SUMMARY:**

Current law requires first and second mortgage loan proceeds to be paid at the time the loan is consummated or, in the case of a loan where the mortgagor has the right to rescind the transaction within three days under Regulation Z (12 C.F.R. 226.23), at the end of this period, whichever is earlier. The bill specifies that loan proceeds must be paid by 3 p.m. on the day the loan is consummated (or at the termination of the rescission period).

By law, these funds may be paid by certified bank or cashier's check or by wire transfer. The bill restores a provision dealing specifically with first and second mortgage proceeds paid by wire transfer that was repealed during the 2007 session, but includes the 3 p.m. closing or disbursement date deadline and a specific civil fine. Specifically, the bill requires these proceeds to be transferred to the bank that holds the mortgagor's attorney's account in a timely manner, but no later than 3 p.m. on the date of closing or, if there is a right to rescind, by 3 p.m. on the disbursement date. For second mortgages, the requirement only applies to loans to finance the acquisition or initial construction of the mortgagor's principal dwelling. The bill specifically allows the banking commissioner to suspend, revoke, or refuse to renew a license, or impose up to a \$1,000 per violation in civil fines for failure to comply. The commissioner can already take these actions generally for any violation of the banking statutes (C.G.S. § 36a-50-51).

**COMMITTEE ACTION**

Banks Committee

Joint Favorable

Yea     17     Nay   0     (03/04/2008)